



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-896

Magnesium Metal from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2014-2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce ("Department") is conducting the administrative review of the antidumping duty order on magnesium metal from the People's Republic of China ("PRC"). The period of review ("POR") is April 1, 2014, through March 31, 2015. This review covers two PRC companies, Tianjin Magnesium International, Co., Ltd. ("TMI") and Tianjin Magnesium Metal, Co., Ltd. ("TMM"). The Department preliminarily finds that TMI and TMM did not have reviewable entries during the POR. We invite interested parties to comment on these preliminary results.

DATES: Effective Date: (Insert date published in the *Federal Register*)

FOR FURTHER INFORMATION CONTACT: James Terpstra or Brendan Quinn, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482-3965 or (202) 482-5848, respectively.

Scope of the Order

The product covered by this antidumping duty order is magnesium metal from the PRC, which includes primary and secondary alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size. Magnesium is a metal or alloy containing by weight

primarily the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by this order includes blends of primary and secondary magnesium.

The subject merchandise includes the following alloy magnesium metal products made from primary and/or secondary magnesium including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes; magnesium ground, chipped, crushed, or machined into rasping, granules, turnings, chips, powder, briquettes, and other shapes; and products that contain 50 percent or greater, but less than 99.8 percent, magnesium, by weight, and that have been entered into the United States as conforming to an “ASTM Specification for Magnesium Alloy”<sup>1</sup> and are thus outside the scope of the existing antidumping orders on magnesium from the PRC (generally referred to as “alloy” magnesium).

The scope of this order excludes: (1) all forms of pure magnesium, including chemical combinations of magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, that do not conform to an “ASTM Specification for Magnesium Alloy”<sup>2</sup>; (2) magnesium that is in liquid or molten form; and (3) mixtures containing 90 percent or less magnesium in granular or powder form by weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nepheline syenite, feldspar, alumina (Al<sub>2</sub>O<sub>3</sub>), calcium

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<sup>1</sup> The meaning of this term is the same as that used by the American Society for Testing and Materials in its Annual Book for ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.

<sup>2</sup> The material is already covered by existing antidumping orders. *See Notice of Antidumping Duty Orders: Pure Magnesium from the People’s Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium from the Russian Federation*, 60 FR 25691 (May 12, 1995); and *Antidumping Duty Order: Pure Magnesium in Granular Form from the People’s Republic of China*, 66 FR 57936 (November 19, 2001).

aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.<sup>3</sup>

The merchandise subject to this order is classifiable under items 8104.19.00, and 8104.30.00 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

### Background

On April 1, 2015, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on magnesium metal from the PRC for the period April 1, 2014 through March 31, 2015.<sup>4</sup> On April 30, 2015, U.S. Magnesium LLC (“U.S. Magnesium”), a domestic producer and Petitioner in the underlying investigation of this case, made a timely request that the Department conduct an administrative review of TMI and TMM.<sup>5</sup> On May 26, 2015, in accordance with section 751(a) of the Tariff Act of 1930, as amended (“the Act”), the Department published in the *Federal Register* a notice of initiation of this antidumping duty administrative review.<sup>6</sup> On June 19, 2015, TMM submitted a letter to the Department certifying that it did not export magnesium metal to the United States during the POR.<sup>7</sup> On June

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<sup>3</sup> This third exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000-2001 investigations of magnesium from China, Israel, and Russia. See *Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form From the People’s Republic of China*, 66 FR 49345 (September 27, 2001); *Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Israel*, 66 FR 49349 (September 27, 2001); *Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation*, 66 FR 49347 (September 27, 2001). These mixtures are not magnesium alloys, because they are not combined in liquid form and cast into the same ingot.

<sup>4</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 80 FR 17392 (April 1, 2015).

<sup>5</sup> See letter from U.S. Magnesium, “Magnesium Metal from the People’s Republic of China: Request for Administrative Review,” dated April 30, 2015.

<sup>6</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 80 FR 30041 (May 26, 2015).

<sup>7</sup> See letter from TMM, “Magnesium Metal from the People’s Republic of China; A-570-896; Certification of No Sales by Tianjin Magnesium Metal Co., Ltd.,” dated June 19, 2015, at 1.

24, 2015, TMI submitted a letter to the Department certifying that it did not export magnesium metal to the United States during the POR.<sup>8</sup>

On July 9, 2015, we notified U.S. Customs and Border Protection (“CBP”) that we were in receipt of no-shipment certifications from TMI and TMM and requested CBP to report any contrary information within 10 days.<sup>9</sup> CBP did not report any contrary information. On August 21, 2015, the Department placed on the record information obtained in response to the Department’s query to CBP concerning imports into the United States of subject merchandise during the POR.<sup>10</sup> This information indicates that there were no entries of subject merchandise during the POR that had been exported by TMI or TMM.

#### Preliminary Determination of No Shipments

As noted in the “Background” section above, TMI and TMM submitted timely-filed certifications indicating that they had no shipments of subject merchandise to the United States during the POR. In addition, CBP did not provide any evidence that contradicts TMI’s and TMM’s claims of no shipments. Further, on August 21, 2015, the Department released to interested parties the results of a CBP query to corroborate TMI and TMM’s no shipment claims.<sup>11</sup> The Department received no comments from interested parties concerning the results of the CBP query.

Based on TMI’s and TMM’s certifications and our analysis of CBP information, we preliminarily determine that TMI and TMM did not have any reviewable entries during the POR. In addition, the Department finds that it is not appropriate to rescind the review in this

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<sup>8</sup> See letter from TMI, “Magnesium Metal from the People’s Republic of China; A-570-896; Certification of No Sales by Tianjin Magnesium International, Co., Ltd.,” dated June 24, 2015, at 1.

<sup>9</sup> See Memorandum to the File, “Magnesium Metal from the People’s Republic of China: 14-15 Administrative Review: U.S. Customs and Border Protection Data,” dated August 21, 2015 (“No Shipments Memo”), at Attachment 1: Customs Message 5190303.

<sup>10</sup> See No Shipments Memo.

<sup>11</sup> *Id.*

circumstance but, rather, to complete the review with respect to TMI and TMM and issue appropriate instructions to CBP based on the final results of the review, consistent with its practice in non-market economy (“NME”) cases.<sup>12</sup>

#### Public Comment

Interested parties may submit case briefs within 30 days after the date of publication of these preliminary results of review in the *Federal Register*.<sup>13</sup> Rebuttals to case briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the time limit for filing case briefs.<sup>14</sup> Parties who submit arguments are requested to submit with the argument (a) a statement of the issue, (b) a brief summary of the argument, and (c) a table of authorities.<sup>15</sup> Parties submitting briefs should do so pursuant to the Department’s electronic filing system: Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (“ACCESS”).<sup>16</sup> ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days of the date of publication of this notice. Requests should contain the following information: (1) the party’s name, address, and telephone number; (2) the number of participants; and (3) a list of the issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a

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<sup>12</sup> See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011) and the “Assessment Rates” section, below.

<sup>13</sup> See 19 CFR 351.309(c)(1)(ii).

<sup>14</sup> See 19 CFR 351.309(d)(1)-(2).

<sup>15</sup> See 19 CFR 351.309(c)(2), (d)(2).

<sup>16</sup> See 19 CFR 351.303 (for general filing requirements).

request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined. *See* 19 CFR 351.310(d). Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

The Department intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the case briefs, within 120 days of publication of these preliminary results in the *Federal Register*, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. Additionally, pursuant to a refinement to its assessment practice in NME cases, if the Department continues to determine that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the PRC-wide rate. For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for TMI, which claimed no shipments, the cash deposit rate

will remain unchanged from the rate assigned to TMI in the most recently completed review of the company; (2) for previously investigated or reviewed PRC and non-PRC exporters who are not under review in this segment of the proceeding but who have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate (including TMM, which claimed no shipments, but has not been found to be separate from the PRC-wide entity), the cash deposit rate will be the PRC-wide rate of 141.49 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: December 24, 2015.

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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

